

## **Agricultural Marketing Service, USDA**

## **§ 80.11**

amendment does not conflict with the provisions of this subpart; and

(c) Copies of the applicable U.S. grade standards and the application for participation in the Fresh Irish Potato Diversion Program can be obtained from the local county FSA office.

### **§ 80.8 Inspection and certificate of diversion.**

Prior to diversion of potatoes to a charitable institution, the fresh Irish potatoes must be inspected by an inspector authorized or licensed by the USDA to inspect and certify the class, quality, and condition of fresh Irish potatoes. The producer will be responsible for requesting and arranging for inspection. For charitable institutions the product must be Positive Lot Identification (PLI) or certified by USDA grading personnel at time of loading. With respect to potatoes diverted for livestock feed, the producer must furnish to FSA such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted.

### **§ 80.9 Claim for payment.**

(a) In order to obtain payment for shipments to charitable institutions, the producer must submit to the county FSA office which approved the application: A properly executed Form FSA-118; a copy of the Notice to Deliver sent from FSA, Kansas City Commodity Office, Kansas City, Missouri; a bill of lading showing shipment was made. All such claims must be filed no later than 30 days after the termination date specified in the applicable approved application. For those potatoes which fail to meet the definition of fresh Irish potatoes provided in § 80.3 or the eligibility requirements of § 80.6, the producer may request an appeal inspection; however, payment of the truck detention and storage charges will be the responsibility of the producer.

(b) Livestock feed payments will be based on the percentage of the offered fresh Irish potatoes meeting U.S. Grade No. 2 Processing. In order to obtain payment the producer must submit to the county FSA office which approved the application a properly executed

FSA-118, and a livestock feed recipient delivery receipt indicating hundred-weight received, the date and name, address, and telephone number of the recipient.

### **§ 80.10 Compliance with program provisions.**

If USDA determines that any provisions of the application or of these regulations has not been complied with, whether by the producer, charitable institution, or livestock feeder, or that any quantity of fresh Irish potatoes diverted under this program was not used exclusively for donation to charitable institutions or livestock feeders (whether such failure was caused directly by the producer or by any other person or persons), the producer will not be entitled to diversion payments in connection with such fresh Irish potatoes, must refund any USDA payment made in connection with such fresh Irish potatoes, and will also be liable to USDA for any other damages incurred as a result of such failure to use the fresh Irish potatoes exclusively for donation to charitable institutions or for use as livestock feed. The USDA may deny any producer the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that:

(a) The producer has failed to use or caused to be used any quantity of fresh Irish potatoes diverted under this program exclusively for donation to charitable institutions or livestock feed, whether such failure was caused directly by the producer or by any other person or persons;

(b) The producer has not acted in good faith in connection with any transaction under this program; or

(c) The producer has failed to discharge fully any obligation assumed by him under this program.

### **§ 80.11 Inspection of premises.**

The producer, charitable institution, or livestock feeder must permit authorized representatives of USDA, at any reasonable time, to have access to their premises to inspect and examine such fresh Irish potatoes as are being diverted or stored for diversion, and to

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inspect and examine the facilities for diverting fresh Irish potatoes to determine compliance with the provisions of this program.

**§ 80.12 Records and accounts.**

The producer, charitable institution, or livestock feeder participating in this program must keep accurate records and accounts showing the details relative to the diversion and livestock feeding of the fresh Irish potatoes. The producer, charitable institution, or livestock feeder must permit authorized representatives of USDA and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts to determine compliance with provisions of this program; such records and accounts must be retained for three years after the date of last payment to the producer under the program, or for 2 years after date of audit of records by USDA as provided herein, whichever is the later.

**7 CFR Ch. I (1–1–01 Edition)****§ 80.13 Offset and assignment.**

(a) Except as provided in paragraph (b) of this section, below, any payment or portion thereof due any person shall be allowed without regard to questions of title under state law, and without regard to any claim or lien against the crop or proceeds thereof in favor of the owner or any other creditor, except for statutory liens belonging to agencies of the U.S. Government. The regulations governing offsets and withholdings found at 7 CFR part 3 shall be applicable to such payments.

(b) Assignments. Assignments will be done in accordance with Form FSA–117.

**§ 80.14 Appeals.**

Appeals under this part will be in accordance with 7 CFR part 780.

**Subpart B [Reserved]****PART 81 [RESERVED]**